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State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
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JACQUELYN A. SUÁREZ  
Commissioner

## FINAL DECISION

### July 29, 2025 Government Records Council Meeting

Scott Madlinger  
Complainant

Complaint No. 2023-190

v.

Borough of Seaside Heights (Ocean)  
Custodian of Record

At the July 29, 2025, public meeting, the Government Records Council (“Council”) considered the July 22, 2025, Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that:

1. The Custodian did not bear her burden of proof that she timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time immediately results in a “deemed” denial of the Complainant’s OPRA request for law firm invoices pursuant to N.J.S.A. 47:1A-5(e), N.J.S.A. 47:1A-5(g), and N.J.S.A. 47:1A-5(i). See Cody v. Middletown Twp. Pub. Schools, GRC Complaint No. 2005-98 (December 2005). See also Harris v. N.J. Dep’t of Corr., GRC Complaint No. 2011-65 (August 2012).
2. Notwithstanding the Custodian’s “deemed” denial, she did not unlawfully deny access to this portion of the Complainant’s OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian certified, and the record reflects, that the Custodian disclosed a copy of a record showing payments made to Rothstein, Mandell, Strohm, Halm, & Cipriana during the requested time frame. See Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
3. The Custodian unlawfully denied access to the Complainant’s OPRA request for copies of Rothstein, Mandell, Strohm, Halm, & Cipriana invoices between April 1, 2023 and July 20, 2023. N.J.S.A. 47:1A-6. Thus, the Custodian shall disclose copies of the requested invoices pursuant to N.J.S.A. 47:1A-1.1.
4. **The Custodian shall comply with conclusion No. 3 above within twenty (20) business days from receipt of the Council’s Final Decision. In the circumstance where the records ordered for disclosure are not provided to the Complainant, the Council’s Final Decision may be enforced in the Superior Court of New Jersey. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).**

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk's Office, Hughes Justice Complex, 25 W. Market St., PO Box 006, Trenton, NJ 08625-0006. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the  
Government Records Council  
On The 29<sup>th</sup> Day of July 2025

John A. Alexy, Chair  
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Steven Ritardi, Esq., Secretary  
Government Records Council

**Decision Distribution Date: July 31, 2025**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
July 29, 2025 Council Meeting**

**Scott Madlinger<sup>1</sup>  
Complainant**

**GRC Complaint No. 2023-190**

**v.**

**Borough of Seaside Heights (Ocean)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Copies via e-mail of “Invoices and Payments made to Rothstein, Mandell, Strohm, Halm, & Cipriana [(“RMSHC”)] for the time period April 01, 2023-July 20, 2023.”

**Custodian of Record:** Diane Stanbley  
**Request Received by Custodian:** July 20, 2023  
**Response Made by Custodian:** July 26, 2023  
**GRC Complaint Received:** August 8, 2023

**Background<sup>3</sup>**

**Request and Response:**

On July 20, 2023, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On July 26, 2023, the fourth (4<sup>th</sup>) business day following receipt of said OPRA request, the Custodian responded in writing disclosing the requested records.

On July 26, 2023, the Complainant and the Custodian’s Counsel argued via e-mail. At 9:41 a.m., the Complainant e-mailed the Custodian, asserting that the Custodian did not provide a proper response because he should have received actual bills. At 2:06 p.m., Counsel in a reply e-mail stated that the disclosed records were responsive to the OPRA request, and that if the Complainant wanted detailed bills same could be provided following review. At 2:22 p.m., the Complainant e-mailed Counsel, stating, “you are well aware the same request goes to [K]aren and I (sic) get the full bills using the same opira (sic) request.” At 2:30 p.m., Counsel in a reply e-mail stated that she was not copied on either the initial OPRA request or response, and that she does not

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Represented by Robin La Bue, Esq., of Rothstein, Mandell, Strohm, Halm & Cipriana, P.C. (Toms River, NJ).

<sup>3</sup> The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

review every OPRA request sent to the Custodian. Counsel also restated the content of her 2:06 p.m. e-mail.

In an e-mail sent at 9:09 a.m. on August 8, 2023, the Complainant stated, “[R]obin, i (sic) told you bills. no (sic) response[.]” At 9:15 a.m., Counsel by reply e-mail informed the Complainant that he never responded to her e-mail. At 9:28 a.m., the Complainant e-mailed Counsel, restating the content of his July 26, 2023 (9:41 a.m.) e-mail. At 9:32 a.m., Counsel replied that she previously informed the Complainant that the records provided were responsive to the request. Counsel further stated, **“You were provided with the specific document you requested, if you want the full bills with description, please respond in writing and they will be provided.”** (Emphasis in original.)

#### Denial of Access Complaint:

On August 8, 2023, at 10:52 a.m., the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that he submitted his OPRA request to the Custodian on July 20, 2023, and on July 26, 2023, the Custodian “provided a vendor activity report, and 1-2 pages of a few invoices.” The Complainant attached to the complaint the records that the Custodian disclosed to him. The balance of the complaint contained a summary of the content of the e-mails between himself and the Custodian’s Counsel on July 26, 2023, and August 8, 2023. The Complainant attached those e-mails to the complaint.

#### Statement of Information:

On August 28, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on July 20, 2023, wherein he sought copies of invoices and payments made to RMSHC from April 1, 2023, until July 20, 2023. The Custodian certified that she responded to the request on July 26, 2023, disclosing to the Complainant “Invoices, Payment Vouchers, Purchase Orders and a detailed vendor activity report for the requested time frame.”

The Custodian certified that, on the same date the records were disclosed, the Complainant e-mailed the Custodian’s Counsel to complain that he did not receive a proper response because he should have been sent the actual bills. The Custodian certified that the Complainant stated, “you are well aware the same request goes to [K]aren and I get the full bills using the same opira request.” The Custodian certified that “[K]aren” is a clerk employed by another municipality.

The Custodian certified that the actual bills had been provided to the Complainant. The Custodian further certified that the Complainant was informed that, if he required additional records, he should request them in writing and they would be provided. The Custodian certified that the Complainant did not request additional records.

In addition to copies of the OPRA request and response, the Custodian attached to the SOI copies of the e-mail threads between the Complainant and the Custodian’s Counsel dated July 26, 2023, and August 8, 2023. The Custodian also attached to the SOI copies of the records disclosed to the Complainant.

### Additional Submissions:

On August 28, 2023, the Complainant e-mailed the GRC to object to the GRC's acceptance of the SOI because he alleged it was not timely filed.<sup>4</sup> The Complainant asserted that the request for the SOI was sent to the Custodian on August 10, 2023, but the Custodian failed to submit the completed SOI by the deadline date of August 24, 2023. The Complainant further asserted that the Custodian did not request an extension of time to submit the completed SOI. The Custodian's Counsel e-mailed the GRC to inform them that the Custodian did not receive the request for the SOI until August 14, 2025. Counsel stated that the due date for return of the completed SOI was calculated from August 14, 2025. Counsel stated that the Custodian would provide a certification of the date received if required by the GRC. The Complainant e-mailed the Custodian's Counsel later that same day, stating "a certification means nothing, because we all know you lie in them, and the GRC does nothing about it." Shortly thereafter, the Complainant e-mailed the GRC and stated that, if he wants to file a Denial of Access Complaint past the sixty (60) days in the future, he will state that he received the Custodian's response late.

On August 28, 2023, the Complainant submitted to the GRC a reply to the SOI. The Complainant stated that the SOI was filed late, and it was deficient because "i (sic) had no duty to try to resolve it with [R]obin (sic), then she wants me to beg for the documents." The Complainant stated that his request was for invoices and payments to RMSHC. The Complainant further stated that he "was sent a vendor activity report that showed payments to the firm." However, in response to his request for invoices, the Complainant stated he was only given the top page of the invoices. The Complainant stated that, although "professional service – see attached" was printed on the top page of an invoice, he was not provided with the attachments.

### Analysis

#### Timeliness

Unless a shorter time period is otherwise provided, a custodian must grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5(i). A custodian's failure to respond accordingly results in a "deemed" denial. Id. Further, a custodian's response, either granting or denying access, must be in writing pursuant to N.J.S.A. 47:1A-5(g).<sup>5</sup> Thus, a custodian's failure to respond in writing to a complainant's OPRA request, either granting access, denying access, seeking clarification, or requesting an extension of time within the statutorily mandated seven (7) business days, results in a "deemed" denial of the complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order dated October 31, 2007).

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<sup>4</sup> N.J.A.C. 5:105-2.4(g) provides that "[c]ustodians shall submit a completed and signed SOI for each complaint to the Council's staff and the complainant not later than 10 business days from the date of receipt of the SOI form from the Council's staff."

<sup>5</sup> A custodian's written response, either granting access, denying access, seeking clarification, or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency's official OPRA request form, is a valid response pursuant to OPRA.

Likewise, barring extenuating circumstances, a custodian's failure to respond immediately in writing to a complainant's OPRA request for immediate access records, either granting access, denying access, seeking clarification, or requesting an extension of time, also results in a "deemed" denial of the request pursuant to N.J.S.A. 47:1A-5(e), N.J.S.A. 47:1A-5(g), and N.J.S.A. 47:1A-5(i).<sup>6</sup> See Cody v. Middletown Twp. Pub. Schools, GRC Complaint No. 2005-98 (December 2005); Harris v. N.J. Dep't of Corr., GRC Complaint No. 2011-65 (August 2012). See also Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007) (holding that the custodian was obligated to immediately notify the complainant regarding the status of immediate access records).

Here, the Complainant sought, *inter alia*, invoices from a law firm. Invoices are immediate access records; however, the evidence of record reveals that the Custodian did not respond until the fourth (4<sup>th</sup>) business day following receipt of the OPRA request, and the Custodian failed to provide an explanation that would reasonably justify a delay in access to the requested records.

Therefore, the Custodian did not bear her burden of proof that she timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time immediately results in a "deemed" denial of the Complainant's OPRA request for law firm invoices pursuant to N.J.S.A. 47:1A-5I, N.J.S.A. 47:1A-5(g), and N.J.S.A. 47:1A-5(i). See Cody, GRC 2005-98. See also Harris, GRC 2011-65.

### **Unlawful Denial of Access**

OPRA provides that government records made, maintained, kept on file, or received by a public agency in the course of its official business are subject to public access unless otherwise exempt. N.J.S.A. 47:1A-1.1. A custodian must release all records responsive to an OPRA request "with certain exceptions." N.J.S.A. 47:1A-1. Additionally, OPRA places the burden on a custodian to prove that a denial of access to records is lawful pursuant to N.J.S.A. 47:1A-6.

OPRA further provides that

A government record shall not include . . . any record within the attorney-client privilege. This paragraph shall not be construed as exempting from access attorney or consultant bills or invoices except that such bills or invoices may be redacted to remove any information protected by the attorney-client privilege[.]

[N.J.S.A. 47:1A-1.1.]

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<sup>6</sup> OPRA lists immediate access records as "budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information." N.J.S.A. 47:1A-5(e). The Council has also determined that purchase orders and invoices are immediate access records. See Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2012-03 (April 2013).

### Payments made to RMSHC

In Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010), the Council found that the custodian did not unlawfully deny access to the requested records based on the custodian's certification that all such records were provided to the complainant. The Council held that the custodian's certification, in addition to the lack of refuting evidence from the complainant, was sufficient to meet the custodian's burden of proof. See also Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005).

Here, with respect to this portion of the Complainant's OPRA request, the Custodian certified in the SOI that on July 26, 2023, she disclosed to the Complainant a copy of a vendor activity report for RMSHC with a date range of April 1, 2023 to July 20, 2023. The Custodian certified that the vendor activity report was responsive to the Complainant's OPRA request. The Custodian attached to the SOI a copy of the vendor activity report, which is a spreadsheet detailing several account items, including the amount due for each individually listed invoice as well as the total amount paid to RMSHC during the relevant period, which was \$49,745.82. Furthermore, there is no evidence in the record to refute the Custodian's certification. To the contrary, the Complainant confirmed in his reply to the SOI dated August 28, 2023, that he "was sent a vendor activity report that showed payments to the firm."

Therefore, notwithstanding the Custodian's "deemed" denial, she did not unlawfully deny access to this portion of the Complainant's OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian certified, and the record reflects, that the Custodian disclosed a copy of a record showing payments made to RMSHC during the requested time frame. See Danis, GRC 2009-156, *et seq.*

### RMSHC Invoices

The Custodian disclosed a copy of an undated purchase order listing the vendor as RMSHC. The purchase order lists invoices numbered consecutively from 14427 to 14435 with the corresponding amount for each invoice listed. The Custodian also disclosed three (3) payment vouchers with an attached document from RMSHC. Although these documents are printed with the word "INVOICE," in the top right corner, they are not invoices but rather statements.<sup>7</sup> This is evident because each such document contains a list of invoice numbers with the corresponding amount for each invoice listed. The total amount for all listed invoices is calculated with a notation to make checks payable to the law firm. The statements contain the following invoice information:

- Statement dated May 10, 2023 lists invoices numbered consecutively from 14700 to 14711.
- Statement dated June 15, 2023 lists invoices numbered consecutively from 14918 to 14928.
- Statement dated July 7, 2023 lists invoices numbered consecutively from 15102 to 15113.

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<sup>7</sup> From *Accounting Coach*, an invoice received from a supplier shows the items purchased, the cost per unit, the total cost or extension of each item, and the total of all the items listed on the invoice. A statement from a supplier lists the amounts from past invoices that the customer has not paid as of a specified date. <https://www.accountingcoach.com/search?q=invoice+v.+statement&stp=1> (Accessed May 16, 2025).

Taken together, the copy of the purchase order and the three (3) copies of payment vouchers with attached statements, when examined against the vendor activity report cover the requested time period of April 1, 2023 to July 20, 2023. As such, the Custodian provided the Complainant with the correct invoice numbers and amounts for the requested period. However, the Complainant's OPRA request sought copies of invoices, not a list of invoice numbers. According to the disclosed records, there are forty-four (44) invoices responsive to the request, copies of which the Custodian failed to disclose to the Complainant.

Accordingly, the Custodian unlawfully denied access to the Complainant's OPRA request for copies of RMSHC invoices between April 1, 2023 and July 20, 2023. N.J.S.A. 47:1A-6. Thus, the Custodian shall disclose copies of the requested invoices pursuant to N.J.S.A. 47:1A-1.1.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian did not bear her burden of proof that she timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time immediately results in a "deemed" denial of the Complainant's OPRA request for law firm invoices pursuant to N.J.S.A. 47:1A-5(e), N.J.S.A. 47:1A-5(g), and N.J.S.A. 47:1A-5(i). See Cody v. Middletown Twp. Pub. Schools, GRC Complaint No. 2005-98 (December 2005). See also Harris v. N.J. Dep't of Corr., GRC Complaint No. 2011-65 (August 2012).
2. Notwithstanding the Custodian's "deemed" denial, she did not unlawfully deny access to this portion of the Complainant's OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian certified, and the record reflects, that the Custodian disclosed a copy of a record showing payments made to Rothstein, Mandell, Strohm, Halm, & Cipriana during the requested time frame. See Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
3. The Custodian unlawfully denied access to the Complainant's OPRA request for copies of Rothstein, Mandell, Strohm, Halm, & Cipriana invoices between April 1, 2023 and July 20, 2023. N.J.S.A. 47:1A-6. Thus, the Custodian shall disclose copies of the requested invoices pursuant to N.J.S.A. 47:1A-1.1.
4. **The Custodian shall comply with conclusion No. 3 above within twenty (20) business days from receipt of the Council's Final Decision. In the circumstance where the records ordered for disclosure are not provided to the Complainant, the Council's Final Decision may be enforced in the Superior Court of New Jersey. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).**

Prepared By: John E. Stewart

July 22, 2025